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PTO/SB/21 (09-04)  
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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

12

Application Number

10/763,719

Filing Date

January 23, 2004

First Named Inventor

Thomas Zdeblick, et al.

Art Unit

3732

Examiner Name

Alvin J. Stewart

Attorney Docket Number

MSDI-200/PC261.21

### ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

☐

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐

Reply to Missing Parts/  
Incomplete Application

☐

Reply to Missing Parts  
under 37 CFR 1.52 or 1.53

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐

Petition to Convert to a  
Provisional Application

☐

Power of Attorney, Revocation

☐

Change of Correspondence Address

☐

Terminal Disclaimer

☐

Request for Refund

☐

CD, Number of CD(s) \_\_\_\_\_

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Landscape Table on CD

☐

After Allowance Communication to TC

☐

Appeal Communication to Board  
of Appeals and Interferences

☐

Appeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)

☐

Proprietary Information

☐

Status Letter

☒

Other Enclosure(s) (please identify  
below):

Return Receipt Postcard; Response to  
Notice of Non-Compliant Amendment Under  
37 CFR 1.121

Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Krieg DeVault LLP

Signature

Printed name

Brad A. Schepers

Date

March 7, 2006

Reg. No.

45,431

### CERTIFICATE OF TRANSMISSION/MAILING

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Brad A. Schepers

Date

March 7, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                              |   |                             |
|------------------------------|---|-----------------------------|
| In re patent application of: | ) | Before the Examiner         |
| Thomas Zdeblick et al.       | ) | Alvin J. Stewart            |
|                              | ) |                             |
| Serial No. 10/763,719        | ) | Group Art Unit 3732         |
|                              | ) |                             |
| Filed January 23, 2004       | ) | Ref. No. MSDI-200/ PC261.21 |
|                              | ) |                             |
| METHODS AND INSTRUMENTS      | ) | March 7, 2006               |
| FOR INTERBODY FUSION         | ) |                             |

## RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT UNDER 37 CFR 1.121

Mail Stop: Amendment  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

In response to the Notice of Non-Compliant Amendment dated February 24, 2006 (one month to respond), please enter and consider the following. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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March 7, 2006

Date of Deposit

Brad A. Schepers

Name of Registered Representative

Signature

March 7, 2006

Date of Signature

### **INTRODUCTORY COMMENTS**

A Notice of Non-Compliant Amendment was mailed to the Applicant on February 24, 2006, indicating that the previously filed Response to Non-final Office Action did not include a complete listing of all pending claims.

However, the Applicant notes that the previously filed Response to Non-final Office Action did not include any amendments to the claims. Accordingly, the Applicant submits that a complete listing of the pending claims was not required to be included with the as-filed Response. Nevertheless, in order to expedite prosecution of the pending application, the Applicant has submitted herewith a listing of all currently pending claims along with the status of each.